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13

14 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

15 DEUTSCHE BANK NATIONAL TRUST
16 COMPANY AS TRUSTEE FOR MORGAN
17 STANLEY ABS CAPITAL I INC. TRUST
18 2006-NC5, MORTGAGE PASS-THROUGH
19 CERTIFICATES, SERIES 2006-NC5

20 Case No.: 2:22-cv-00547-GMN-BNW

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22 **STIPULATION AND ORDER FOR**
LIMITED STAY OF CASE

23 Plaintiff,

24 vs.

25 NORTH AMERICAN TITLE INSURANCE
26 COMPANY, INC. and ROE CORPORATIONS
27 XI through XX, inclusive,

28 Defendants.

29 Plaintiff, Deutsche Bank National Trust Company as Trustee for Morgan Stanley ABS
30 Capital I Inc. Trust 2006-NC5, Mortgage Pass-Through Certificates, Series 2006-NC5
31 (“Plaintiff”) and Defendant North American Title Insurance Company, Inc. (“Defendant”, and
32 with Plaintiff, the “Parties”), by and through their undersigned counsel, hereby stipulate as
33 follows:

34 This matter involves a title insurance coverage dispute wherein Plaintiff contends, and
35 Defendant disputes, that the title insurance claim involving an HOA assessment lien and
36 subsequent sale was covered by the subject policy of title insurance. There are now currently
37 pending in the United States District Court for the District of Nevada and Nevada state courts
38

1 more than one-hundred actions between national banks, on the one hand, and title insurers, on the
 2 other hand. In virtually all of these actions, the title insurer underwrote an ALTA 1992 or ALTA
 3 2006 loan policy of title insurance with form 1 coverage, along with the CLTA 100/ALTA 9
 4 and/or CLTA 115.2/ALTA 5 Endorsements.

5 The Parties have conferred and believe a limited six-month stay is warranted. The
 6 *PennyMac Corp. v. Westcor Land Title Ins. Co.*, Nevada Supreme Court Case No. 83737
 7 (“*PennyMac*”) appeal remains pending. Additionally, there is another fully briefed appeal to the
 8 Nevada Supreme Court involving a similar coverage dispute in *Deutsche Bank Nat'l Trust Co. v.*
 9 *Fidelity Nat'l Title Ins. Co.*, Nevada Supreme Court Case No. 84161 (“*Deutsche Bank*”). Both
 10 *PennyMac* and *Deutsche Bank* are fully briefed, and oral argument has been set for April 11,
 11 2023.¹ The Parties anticipate that the Nevada Supreme Court’s decisions in the foregoing appeals
 12 may touch upon issues regarding the interpretation of policy and claims handling, that could
 13 potentially affect the disposition of the instant action.

14 Accordingly, the Parties believe a stay of six months in the instant action will best serve
 15 the interests of judicial economy. The Parties request that the action be stayed for six months,
 16 through and including, September 7, 2023. The Parties are to submit a Joint Status Report on or
 17 before September 7, 2023. The Parties further agree that this stipulation and stay of this case is
 18 entered based on the specific circumstances surrounding this particular case, and that this
 19 stipulation shall not be viewed as a reason for granting a stay in any other pending matter.

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25 ¹ There are also two separate appeals with the Ninth Circuit involving similar coverage disputes.
 26 The appeal in *Wells Fargo Bank, N.A. v. Commonwealth Land Title Ins. Co.*, Case No. 19-16181
 27 is fully briefed, but the Ninth Circuit has deferred its decision pending the *PennyMac* and
 28 *Deutsche Bank* appeals. See Dkt. Ent. 75. The appeal in *U.S. Bank Nat'l Ass'n v. Stewart Title
 Guaranty Co.*, Case No. 22-17015 is in the early stages of briefing with U.S. Bank’s opening brief
 currently due March 30, 2023.

1 **NOW THEREFORE**, the Parties, by and through their undersigned counsel, hereby
2 stipulate and agree as follows:

- 3 1. In the interests of judicial economy and in efforts to preserve the Parties' resources,
4 the Parties request that this action be **STAYED FOR SIX (6) MONTHS**, through and
5 including, September 7, 2023.
- 6 2. All deadlines currently set in this case shall be **VACATED**.
- 7 3. The Parties are to submit a Joint Status Report on or before September 7, 2023.
- 8 4. By entering into this Stipulation, none of the Parties is waiving its right to
9 subsequently move the Court for an order lifting the stay in this action.
- 10 5. Notwithstanding this Stipulation, the Parties may continue to conduct third-party
11 discovery (including by issuing and enforcing third-party subpoenas) to preserve
12 evidence.

13 **IT IS SO STIPULATED.**

14 DATED this 6th day of March, 2023.

15 WRIGHT, FINLAY & ZAK, LLP

16 /s/ Lindsay D. Dragon

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21 *Attorneys for Plaintiff, Deutsche Bank
National Trust Company as Trustee for
Morgan Stanley ABS Capital I Inc. Trust
2006-NC5, Mortgage Pass-Through
Certificates, Series 2006-NC5*

22 DATED this 6th day of March, 2023.

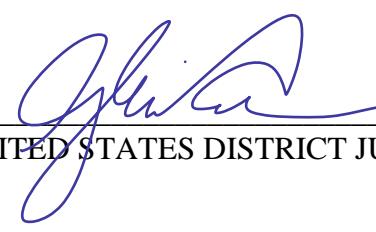
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24 /s/ Kevin S. Sinclair

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29 *Attorneys for Defendant, North American
Title Insurance Company, Inc.*

30 **IT IS SO ORDERED.**

31 Dated this 7 day of March, 2023.

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33 _____
34 UNITED STATES DISTRICT JUDGE